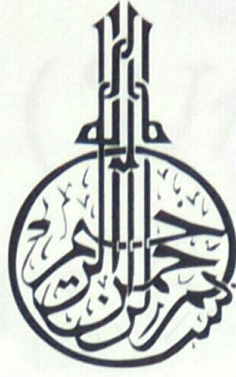


The Position of Custom ('Urf / 'Ādat) in Issuing Fatwa

In the works of Ibn 'Ābidīn al-Shamī (d. 1252/1836)

المعروف كالسُّرُوط
الْمَعْرُوفُ كَالسُّرُوطِ

Mohammed Farid Ali Al-Fijawi



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Mohammed Farid Ali Al-Fijawi

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Fatwa issued currently by Shari'ah scholars, committees, and muftis occasionally fall short of meeting the challenges of modern society. Ibn 'Ābidīn's concept of custom ('urf) and its application provide a basic guide to meet the modern challenges in its totality. The present work refers to his three works—*Sharh 'Uqūd Rasm al-Mufti*, *Nashr al-'urf fi bina' ba'd al-ahkam 'ala al-'urf*, and *Radd al-Muhtar 'ala al-Durr al-Mukhtar Sharh Tanwir al-Absar (al-Hashiyah)*—written in 13th century A.H. These works present 'urf as a practical instrument for muftis and those responsible to issue *fatwa*. The first work is used as an overall framework, while the other two works offer commentaries on the latter, providing details and cases of application. This work enunciates that Ibn 'Ābidīn identifies custom as effective in Islamic law only if it fulfils the condition to specify the legal text (*takhsis al-Nass*), without opposing it completely. The variations of 'urf in society will only affect those legal issues that are custom-related and not directly based on *nass* (*Qur'an* and *Sunnah*). Moreover, all custom-related issues in manifest rulings (*zahir al-riwayah*) of a Legal School are subjected to change as custom changes.

Mohammed Farid Ali al-Fijawi, Dr. specialized in *fiqh* and *fatwa*, and later pursued his MA (Islamic Civilization) and PhD (Muslim World Issues). He is currently teaching in *Fiqh* and *Usul al-Fiqh* Department, Kuliyah of Islamic Revealed Knowledge and Human Sciences, International Islamic University Malaysia.

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